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**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

[1] S.B. CIVIL WRIT PETITION NO.1518/99
Khem Chand **Versus** Municipality Bundi & Anr.

[2] S.B. CIVIL WRIT PETITION NO.1519/99
Laddha Ram **Versus** Municipality Bundi & Anr.

[3] S.B. CIVIL WRIT PETITION NO.1520/99
Ashok Kumar **Versus** Municipality Bundi & Anr.

DATE OF ORDER :: 12/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Rinesh Gupta for Mr. A.K. Gupta, for
petitioners
Mr. Mithesh Sharma for Manoj Sharma, for
respondents

* * *

Instant petitions have been filed by thadi holders questioning the decision of the Committee to pay premium determined for leasing out the land for 99 years in terms of Ann.5 dated 9th March, 1999.

This fact has not been disputed that petitioners are thadi holders for sufficient long time except Khemchand who has purchased by making payment of consideration from Shri Moolchand who was the original thadi holder. On their application submitted to the Municipal Council, Bundi, the Executive Officer passed order to lease out the place occupied by them on lease for 99 years on payment of tentative premium fixed

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vide order Ann.2 dated 15th October, 1997. To be more specific, the petitioner Khemchand is having thadi upon 167 sq. ft. and other petitioners are having thadi with the measurement of 100 sq. ft. & 156 sq. ft. respectively. Tentative premium was deposited by all the three petitioners. Later on, when the matter came before the Committee constituted under Rajasthan Municipalities [Disposal of Urban Land] Rules, 1974 [**"Rules, 1974"**], the Committee finally fixed price/premium of Rs.3,25,000/-, 2,25,000/-, 3,25,000/- for the respective petitioners for granting lease for 99 years vide order Ann.4 dated 18th February, 1999.

Counsel for petitioners contends that once the premium was decided and communicated to them by the Executive Officer and deposited by respective petitioners and place was leased out to them for 99 years, no fresh decision could have been taken by the respondents for the land which was already allotted to the respective petitioners on lease for 99 years under the Rules, 1974.

Counsel further contends that as per document which he has placed on record along with rejoinder Ann.6 the reserve price for commercial land was Rs.300/- per sq. ft. As such, the Committee has arbitrarily determined the price of

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land allotted to respective petitioners on lease for 99 years and such arbitrary decision does not corroborate with the material on record and is not legally sustainable.

Respondents have filed reply to the writ petition wherein it has been averred that the Executive Officer of the Municipality is not competent to decide the price which is to be charged and it was to be decided by the Committee under Rules, 1974 which alone is competent under Rule 12 of the rules. According to respondents, what has been initially paid by the respective petitioners was tentative price/premium and was subject to final decision to be arrived at by the Committee, but according to him in ordinary course premium has to be ordinarily determined in terms of Rule 6 of Rules, 1974 by public auction, but the amount of reserve or the minimum premium which can be reserve price can be decided by the Committee referred to in Rule 12 of Rules, 1974.

In the present matter, since they were thadi holders running business for sufficient long time, it was not put to public auction and the Committee constituted under Rule 12 of Rules, 1974 took decision about fixing the price/premium as referred to in Ann.5 which in no manner can be said to be its arbitrary decision and does not call for any interference by this court.

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So far as letter placed on record as Ann.6 of Executive Officer is concerned, counsel for respondents submits that he was not the authority competent and what has been referred to by him in no manner can be considered to be price of land, particularly, when the power and authority vests only with the Committee constituted under Rule 12 of Rules, 1974. Mere reference made by him will not be of any significance while examining the price/premium determined by the Committee which alone holds competence for disposal of urban land under Rules, 1974.

I have considered the submission of both the counsel and with their assistance examined the material available on record.

This fact remain undisputed that petitioners are thadi holders and running their business for sufficient long time and respondents took decision to lease out for the period of 99 years. From document Ann.2, it clearly shows that it was a tentative price/premium fixed by the Executive Officer for leasing out the land in question for 99 years, but what has been paid in pursuance thereof is always subject to adjustment, the reserve price for the land in question as is evident from Rule 6 shall ordinarily be determined by public auction but the amount of reserve or the minimum premium which can be

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reserve price, can be decided by the Committee referred to under Rule 12 of Rules, 1974.

Undisputedly, the Committee constituted under Rule 12 of Rules, 1974 after taking into consideration the available material took decision to charge Rs.3,25,000/-, 2,25,000/-, 3,25,000/- respectively from each petitioner subject to adjustment what has been paid by each petitioner initially under the orders of Executive Officer. Ordinarily, once the Committee took decision who holds competence in taking decision to fix the minimum reserve price is not required to be interfered in the writ jurisdiction of this court unless it is wholly arbitrary or the action is without any authority of law which is not the case of petitioners.

In the instant matter, the Committee took decision after taking note of the relevant price which is the market price so also the price fixed by Sub-Registrar, Registration and thereafter, took decision which, in my opinion, does not call for any interference by this court.

So far as submission made by counsel for petitioners about document Ann.6 is concerned, suffice it to say that power is vested with the Committee constituted under Rule 12 of Rules, 1974 and what has been exercised by him does not

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hold any legal significance to examine the minimum reserve price fixed by the Committee after its due deliberation who alone holds competence under Rules, 1974.

Consequently, I find no force in the present writ petitions, the same stand dismissed.

Counsel for petitioners submits that he may be permitted to make payment of balance amount within three months.

I consider it proper that since they are thadi holders, may now deposit the balance amount within two months. No order as to costs.

[AJAY RASTOGI], J.

FRBOHRA, JR. P. A.